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COMPULSORY SCHOOL ATTENDANCE

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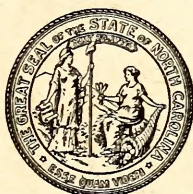
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PUBLICATION No. 247

COMPULSORY SCHOOL ATTENDANCE



ISSUED BY THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
RALEIGH, NORTH CAROLINA

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PREFACE

The importance of regular school attendance as a requisite to good learning is well-known. While school attendance is compulsory for all children between the ages of seven and fourteen, the Constitution provides that all children between the ages of six and twenty-one years are entitled to the benefits of public education. Regular school attendance, however, has not yet reached the point where the results from good teaching situations may be considered satisfactory. In a few local areas where attendance officers have been especially active, notable success has been made. But on a State-wide basis, even though there has been some effort to improve the situation, there are still more unnecessary absences than there should be.

Every teacher knows that adequate instruction cannot be given to a pupil who attends classes irregularly. Most parents realize this too. And yet last year, 1942-43, there were an average of 56,439 absences for each day the schools operated. The records show that absences are greater among pupils in the elementary grades, one out of each 14 in membership as against one out of each 18 in grades 8-12. The reports also show that in addition to these daily absences there were 57,000 pupils who actually stopped school to enter employment or for other reasons. Some of these were unavoidable, it is true; but it is obvious that when one child out of every fourteen in average daily membership is absent, efficiency of instruction decreases and pupil retardation increases. The fact that the Army is now having to conduct schools in order to teach soldiers how to read and write indicates that such soldiers did not attend school regularly when they had the opportunity.

Under the authority conferred by the Compulsory Attendance Law and in accordance with the Rules and Regulations of the State Board of Education, every public school official, including boards of education, superintendents, supervisors, principals, attendance officers, and teachers, is charged with specific duties and responsibilities in connection with the enforcement of the law. That this law has not been enforced in a good many places is generally known. This noncompliance with the law appears to be due to the fact that responsibility for its enforcement has been distributed and the officials concerned have not always worked together closely enough to make the law effective. In addition, a lack of knowledge or misunderstanding as to respective duties and responsibilities has caused a general apathy to grow up among school people and welfare officers alike, each holding the other responsible for the enforcement of the law.

Believing that the time has come when something should be done to clarify this situation, Mrs. W. T. Bost, State Commissioner of Charities and Welfare, and I jointly appointed a committee to study the situation and to make recommendations as to ways and means of stimulating more interest in school attendance and to define the duties and responsibilities of each person concerned with the enforcement of the law. That committee, composed of school superintendents, welfare superintendents and

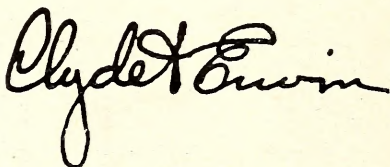
Gary W. Bergefoot
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State department officials, has recently made its report which includes five major recommendations as follows:

1. That "Rules of Procedure for the Enforcement of the Compulsory Attendance Law" be adopted.
2. That the "Rules and Regulations Governing Compulsory School Attendance Adopted by the State Board of Education" be revised.
3. That the forms used in the enforcement of the law be revised.
4. That a bulletin on Compulsory School Attendance based on the adopted revisions be prepared and distributed.
5. That a "State-wide Campaign to Secure Better School Attendance" be initiated and carried out.

The State Board of Education at its meeting on February 24, 1944, adopted the Report of the Committee, and approved the preparation of a publication containing the Compulsory Attendance Law, the Rules and Regulations of the State Board of Education as amended in accordance with the suggestions of the Committee, the "Rules of Procedure for the Enforcement of the Compulsory Attendance Law" as prepared by the Committee, Rulings of the Attorney General as to certain questions concerning the Law, and a statement by Mrs. W. T. Bost, Commissioner of Public Charities and Welfare. The revised forms suggested by the Committee are also printed in this bulletin.

Upon receipt of this publication, I wish each of you to read it carefully, especially that part which concerns your duties and responsibilities, and begin *now* in line with the suggestions contained herein to inaugurate a program to secure better school attendance not only for the remaining months of this year, but for each succeeding year. As you well know, *school attendance* is more inclusive than just the *enforcement* of the Compulsory School Attendance Law. I hope, therefore, that you will consider it in its broader aspects and will cooperate with others in an effort to secure better school attendance beginning with the enforcement of the law.

A handwritten signature in dark ink, reading "Clyde H. Ewin". The signature is written in a cursive style with a large, prominent initial "C".

State Superintendent of Public Instruction.

February 25, 1944.

STATEMENT BY MRS. W. T. BOST, COMMISSIONER OF STATE BOARD OF CHARITIES AND PUBLIC WELFARE

The statement made by Dr. Clyde A. Erwin, State Superintendent of Public Instruction, that during the school year 1942-43 there was an average of 56,439 absences for each day the schools operated is a startling one, and calls for constructive action on the part of all State and local agencies charged with responsibility for the enforcement of the compulsory school attendance act in North Carolina. Apparently other states are faced with similar problems as statistics show that from 1940 to 1942 there was a ten per cent drop in school enrollment.

According to the more recent ruling of the Attorney General's Office, it is the duty of the County Superintendent of Public Welfare under the law "to *investigate and prosecute* all violators" of the compulsory attendance law which assumes that before the report of absences has been placed in the hands of the welfare superintendent by school officials it has been determined by investigation that it is an unlawful absence and therefore a violation of the law. Enabling legislation passed in 1939 permitted county and city administrative school boards to appoint special school attendance officers, and in such cases, responsibility for enforcement of compulsory school attendance is transferred from the county superintendent of public welfare to the special school attendance officer.

Regardless of the degree of responsibility lodged with county welfare departments for seeing that children attend school, social workers are among the first to recognize the school as a most valuable resource and as a positive force in the training of children. They likewise recognize school truancy as a first step in juvenile delinquency. In case work with families needing public assistance, proper clothing for school children is among the first needs to be recognized and met. The correction of some physical defect by medical care, or perhaps the study and treatment of a mental or emotional disturbance of a child are other conditions that claim attention. In other words, the welfare department is deeply concerned in the matter of preparing the child for school as well as keeping him in school.

While it is true that North Carolina along with two other states, Georgia and Louisiana, permit children to stop school at the age of 14, have we not a responsibility for seeing that all children between the ages of 6 and 21 avail themselves of the benefits of public education, thereby fitting themselves for becoming self-supporting, self-reliant citizens?

Katherine F. Lenroot, Chief of the United States Children's Bureau, recently stated that 3,000,000 children 14 to 17 years of age are now employed, and urged that we see to it that many of those children be put back in school. Hundreds of instances are shown in which many of those young people are carrying a double load with a full schedule of school work and long hours of outside work, sometimes as much as 56 or 70 hours a week. Many of these young people are lured from home and

school by the glamor of these war jobs at high wages, when in actuality there is no economic need for them to work. They should be kept in school.

In 1942 the number of 14 and 15 year-olds obtaining certificates for full or part-time employment in the country was twice as great as 1941, and for the 16 and 17 year-old group the increase was nearly 75%. In North Carolina in 1941 the number of non-manufacturing group children 14-16 in employment was 3,259 while in 1942 it was 6,753. For the group 16-18, 17, 114 work certificates were issued in 1941 and 28,666 in 1942.

There is a dual responsibility therefore placed upon all agencies concerned with youth, not only for enforcement of the compulsory school attendance law but encouragement and stimulation of these young people to stay in school beyond the required age of 14, if they are to acquire the skills and training they must have in order to meet the stiff competition that employment offers today.

COMPULSORY ATTENDANCE IN SCHOOLS

(SUBCHAPTER XV, CHAPTER 115, N. C. CODE)

Art. 42. General Compulsory Attendance Law

§115-302. **Parent or guardian required to keep child in school; exception.** Every parent, guardian, or other person in the State having charge or control of a child between the ages of seven and fourteen years shall cause such child to attend school continuously for a period equal to the time which the public school in the district in which the child resides shall be in session. The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse the child from temporary attendance on account of sickness or distance of residence from the school, or other unavoidable cause which does not constitute truancy as defined by the State Board of Education. The term "school" as used in this section is defined to embrace all public schools and such private schools as have tutors or teachers and curricula that are approved by the county superintendent of public instruction or the State Board of Education.

All private schools receiving and instructing children of compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children as are required of public schools; and attendance upon such schools, if the school or tutor refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district, town, or city which the child shall be entitled to attend: *Provided*, instruction in a private school or by a private tutor shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term. (1923, c. 136, s. 347; 1925, c. 226, s. 1; C. S. 5757.)

§115-303. **State Board of Education to make rules and regulations; method of enforcement.** It shall be the duty of the State Board of Education to formulate such rules and regulations as may be necessary for the proper enforcement of the provisions of this article. The Board shall prescribe what shall constitute truancy, what causes may constitute legitimate excuses for temporary non-attendance due to physical or mental inability to attend, and under what circumstances teachers, principals, or superintendents may excuse pupils for non-attendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State. It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a misdemeanor. *Provided*, that the preceding section shall not be in force in any City or County that has a higher compulsory attendance law now in force than that provided herein; but in any such case it shall be the duty of the State Board of Education to investigate the same and decide that any such law now in force has a higher compulsory attendance feature than that provided by this article: *Provided*, that wherever any district is without adequate buildings for the proper enforcement of this article, the County Boards of Education may be allowed not more than two years

from July the first, one thousand nine hundred and nineteen, to make full and ample provision in every district.

Mental incapacity shall be an excuse for non-attendance, and is interpreted to mean feeble-mindedness or such nervous disorder as to make it either impossible for such child to profit by instruction given in the school or impracticable for the teacher properly to instruct the normal pupils of the school. In the case of feeble-minded children the teacher shall designate the same in her reports to the County Superintendent of Public Welfare, and it shall be his duty to report all such cases to the State Board of Charities and Public Welfare. Whereupon said Board shall make, or cause to be made, an examination to ascertain the mental incapacity of said child and report the same to the County or City Superintendent involved. Upon receipt of said report the local school authorities are hereby authorized, under such limitations and rules as the State Board of Education may adopt, to exclude said child from the public school when it is ascertained that the child cannot benefit by said instruction and his presence becomes a source of disturbance to the rest of the children. In all such cases in which a child is excluded from school a complete record of the whole transaction shall be filed in the office of the County or City Superintendent and kept as a public record. (1923, c. 136, s. 348; 1931, c. 453, s. 1; C. S. 5758.)

§115-304. Attendance officers; reports; prosecutions. The State Superintendent of Public Instruction shall prepare such rules and procedure and furnish such blanks for teachers and other school officials as may be necessary for reporting each case of truancy or lack of attendance to the chief attendance officer referred to in this article. Such rules shall provide, among other things, for a notification in writing to the person responsible for the non-attendance of any child, that the case is to be reported to the chief attendance officer of the county unless the law is immediately complied with. The County Board of Education in a county administrative unit and the board of trustees in a city administrative unit may employ special attendance officers to be paid from funds derived from fines, forfeitures and penalties, or other local funds, and said officers shall have full authority to prosecute for violations of this article; *Provided further* that in any unit where a special attendance officer is employed, the duties of chief attendance officer or truant officer as provided by law shall, in so far as they relate to such unit, be transferred from the County Superintendent of Public Welfare to the special attendance officer of said unit. (1923, c. 136, s. 349; 1939, c. 270; C. S. 5759.)

§115-305. Violation of law; penalty. Any parent, guardian, or other person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than five dollars nor more than twenty-five dollars, and upon failure or refusal to pay such fine, the said parent, guardian, or other person shall be imprisoned not exceeding thirty days in the county jail. (1923, c. 136, s. 350; C. S. 5760.)

§115-306. Investigation and prosecution by county superintendent and attendance officer. The county superintendent of public welfare or chief school attendance officer or truant officer provided for by law shall investigate and prosecute all violators of the provisions of this article. The

reports of unlawful absence required to be made by teachers and principals to the chief attendance officer shall in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this article, and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school. (1923, c. 136, s. 351; 1925, c. 226, s. 2; C. S. 5761.)

§115-307. **Investigation as to indigency of child.** If affidavit shall be made by the parent of a child or by any other person that any child between the ages of seven and fourteen years is not able to attend school by reason of necessity to work or labor for the support of itself or the support of the family, then the attendance officer shall diligently inquire into the matter and bring it to the attention of some court allowed by law to act as a juvenile court, and said court shall proceed to find whether as a matter of fact such parents, or persons standing in locus parentis, are unable to send said child to school for the term of compulsory attendance for the reasons given. If the court shall find, after careful investigation, that the parents have made or are making a bona fide effort to comply with the compulsory attendance act, and by reason of illness, lack of earning capacity, or any other cause which the court may deem valid and sufficient, are unable to send said child to school, then the court shall find and state what help is needed for the family to enable the attendance law to be complied with. The court shall transmit its findings to the county board of education of the county or, in special-charter districts, to the board of trustees in which the case may arise. (1923, c. 136, s. 352; C. S. 5762.)

§115-308. **Aid to indigent child.** The county board of education shall, in its discretion, order aid to be given the family from the operating and equipment fund of the county school budget to an extent not to exceed ten dollars per month for such child during the continuance of the compulsory term; and shall at the same time require said officer to see that the money is used for the purpose for which it is appropriated and to report from time to time whether it shall be continued or withdrawn. And the county board of education is hereby authorized in making out the county budget to provide a sum to meet the provisions of this article. (1923, c. 136, s. 353; C. S. 5763.)

Art. 43. Compulsory Attendance of Deaf and Blind Children

§115-309. **Deaf and blind children to attend school; age limits; minimum attendance.** Every deaf and every blind child of sound mind in North Carolina who shall be qualified for admission into a state school for the deaf or the blind shall attend a school for the deaf or the blind for a term of nine months each year between the ages of seven and eighteen years. Parents, guardians, or custodians of every such blind or deaf child between the ages of seven and eighteen years shall send, or cause to be sent, such child to some school for the instruction of the blind or deaf as is herein provided: *Provided*, that the board of directors of any school for the deaf or blind may exempt any such child from attendance at any session or during any year, and may discharge from their custody any such blind or deaf child whenever such discharge seems necessary or proper. Whenever a deaf or blind child shall reach the age of eighteen and is still unable to become self-supporting because of its defects, such a child shall

continue in said school until it reaches the age of twenty-one, unless it becomes self-supporting sooner. (1923, c. 136, s. 354; C. S. 5764.)

§115-310. Parents, etc., failing to send deaf child to school guilty of misdemeanor; provisos. The parents, guardians, or custodians of any deaf children between the ages of seven and eighteen years failing to send such deaf child or children to some school for instruction, as provided in the article, shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court, for each year said deaf child is kept out of school, between the ages herein provided: *Provided*, (1) that parents, guardians, or custodians may elect two years between the ages of seven and eighteen years that a deaf child or children may remain out of school, and (2) that this section shall not apply to or be enforced against the parent, guardian, or custodian of any deaf child until such time as the superintendent of any school for the instruction of the deaf, by and with the approval of the executive committee of such institution, shall in his and their discretion serve written notice on such parent, guardian, or custodian, directing that such child be sent to the institution whereof they have charge. (1923, c. 136, s. 355; C. S. 5765.)

§115-311. Parents, etc., failing to send blind child to school, guilty of misdemeanor; provisos. The parents, guardians or custodians of any blind child or children between the ages of seven and eighteen years failing to send such child or children to some school for the instruction of the blind shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, at the discretion of the court, for each year that such child or children shall be kept out of school between the ages specified: *Provided*, (1) that this section shall not be enforced against the parents, guardians, or custodians of any blind child until such time as the authorities of some school for the instruction of the blind shall serve written notice on such parents, guardians, or custodians, directing that such child be sent to the school whereof they have charge; and (2) that the authorities of the state school for the blind and the deaf shall not be compelled to retain in their custody or under their instruction any incorrigible person or persons of confirmed immoral habits. (1923, c. 136, s. 356; C. S. 5766.)

§115-312. County superintendent to report defective children. It shall be the duty of the county superintendent to report through proper legal channels, the names and addresses of parents, guardians, or custodians of deaf, dumb, blind, and feeble-minded children to the principal of the institution provided for each, and upon the failure of the county superintendent to make such reports, he shall be fined five dollars for each child of the class mentioned above not so reported. (1923, c. 136, s. 357; C. S. 5767.)

RULINGS OF THE ATTORNEY GENERAL CONCERNING COMPULSORY SCHOOL ATTENDANCE

8 April, 1943

COPY

SUBJECT: Schools; Compulsory Attendance Law;
Duties of Welfare Officers; Enforcement.

Mr. _____, Superintendent
_____ City Schools
_____, North Carolina

Dear Mr. _____:

You inquire if the welfare officers of the various counties of the State are relieved of all liability for assisting in the enforcement of the compulsory attendance law.

Prior to the year 1939, it was clearly the duty of the welfare officers in the various counties of the State to investigate and prosecute all violators of the compulsory attendance law, the applicable Sections being Consolidated Statutes 5017 (Now Section 108-14 of the General Statutes of North Carolina), which provided that the County Superintendent of Public Welfare should be the chief attendance officer of the county, and Consolidated Statutes 5761 (Now Section 115-306 of the General Statutes of North Carolina), which provided that the County Superintendent of Public Welfare or chief school attendance officer or truant officer provided for by law shall investigate and prosecute all violators of the compulsory attendance law.

The General Assembly of 1939 enacted Chapter 270 of the Public Laws of 1939, which was made a part of Consolidated Statutes 5759 (Now Section 115-304 of the General Statutes of North Carolina), and this Chapter provided that the County Board of Education in a county administrative unit and the Board of Trustees in a city administrative unit might employ special attendance officers to be paid from funds derived from fines, forfeitures and penalties, or other local funds, and that said officers shall have full authority to prosecute for violations of the compulsory attendance law. This Chapter contained a proviso to the effect that in any unit where a special attendance officer is employed, the duties of chief attendance officer or truant officer, in so far as they related to such unit, were transferred from the County Superintendent of Public Welfare to the special attendance officer of the unit.

The General Assembly of 1941, in enacting Chapter 270, Public Laws of 1941, rewrote Consolidated Statutes 5017 (Now Section 108-14 of the General Statutes of North Carolina), which outlines the powers and duties of County Superintendents of Public Welfare, and omitted therefrom that portion of the Section which designated the County Superintendent of Welfare as the chief school attendance officer of the county. That portion of Consolidated Statutes 5761 (Now Section 115-306 of the General Statutes of North Carolina), which places the duty of investigating and prosecuting violators of the provisions of the compulsory attendance law on the County Superintendents of Public Welfare is not referred to in

Chapter 270 of the Public Laws of 1941, and does not seem to be affected by it.

Thus, it would seem to me that in the absence of a local statute designating some other person as chief school attendance officer or truant officer, or in the absence of employment of such a person under the provisions of Chapter 270 of the Public Laws of 1939, the County Superintendent of Public Welfare would still be charged with the duty of investigating and prosecuting all violators of the compulsory attendance law. I do not have any information as to how many counties in the State have employed attendance officers under Chapter 270, Public Laws of 1939.

Of course you understand that the opinions of this Office are advisory only and are not binding on the courts of this State.

HARRY McMULLAN,
Attorney General.

Signed: GEORGE B. PATTON,
Assistant Attorney General.

GBP—d

2 September, 1943

COPY

SUBJECT: Schools; Compulsory Attendance Law;
Dismissal of Pupils; Mentally Defective Pupils.

DR. CLYDE A. ERWIN
State Superintendent of Public Instruction
Raleigh, North Carolina

Dear Dr. Erwin:

Receipt is acknowledged of your letter of August 31 enclosing a letter from Mr. _____ of _____, North Carolina. You desire to know what discretion, in my opinion, a principal or teacher has in judging whether or not a child should remain in school.

It seems to me that the compulsory attendance law contemplates that all children in North Carolina between certain ages should receive some type of training. The type of school in which such training is to be received is, to my mind, determined by the mental or physical condition of the particular child in question. If the child is a normal, healthy child, it should attend the public schools or a school which is included in the definition of "school" as contained in Section 5757 of Michie's NORTH CAROLINA CODE OF 1939, ANNOTATED (Now Section 115-302 of the General Statutes of North Carolina).

Section 5767 of Michie's Code (Now Section 115-312 of the General Statutes of North Carolina) provides:

"It shall be the duty of the superintendent to report through proper legal channels the names and addresses of parents, guardians, or custodians, of deaf, dumb, blind, and feeble minded children to the institution provided for each, and upon the failure of the county superintendent to make such reports, he shall be fined \$5.00 for each child of the class mentioned above not so reported."

Section 5567 authorizes physical examination of pupils attending the schools of the State. If a child is not found to be feeble minded or physically defective, to such an extent that the instruction of such child is provided for by the State of North Carolina otherwise than in the public school, it is my thought that such child should be accepted in the public schools of this State and would be subject to discipline in the school which such child attends.

Of course, Section 5563 of Michie's NORTH CAROLINA CODE OF 1939, ANNOTATED (Now Section 115-145 of the General Statutes of North Carolina), provides that a teacher in a school having no principal or the principal of a school shall have authority to suspend any pupil who willfully and persistently violates the rules of the schools or who may be guilty of a moral or disreputable conduct or who may be a menace to the school. This section further provides that every suspension for cause shall be reported at once to the attendance officer, who shall investigate the cause and shall deal with the offender, in accordance with rules governing the attendance of children in schools.

It is therefore my opinion that unless the child about which Mr. _____ inquires is a feeble minded child, the school authorities should accept the pupil and undertake to subject her to the discipline of the school and should only dismiss her if she comes within the purview of Section 5563 above referred to.

Yours very truly,

HARRY McMULLAN,
Attorney General.

Signed: GEORGE B. PATTON,
Assistant Attorney General.

GBP:LHA

January 6, 1944

COPY

SUBJECT: Schools; Compulsory Attendance;
Enforcement; Juvenile Courts; Procedure.

DR. CLYDE A. ERWIN
Superintendent of Public Instruction
Raleigh, North Carolina

Dear Dr. Erwin:

Receipt is acknowledged of your letter of January 3 enclosing letter from Superintendent _____ of the _____ schools. You desire that this office give an opinion on two questions raised in Mr. _____'s letter.

The first question is, "Does a special attendance officer have authority to pick up a child out of school and deliver him to the principal of his or her respective school?"

It is provided in Section 115-304 of the General Statutes of North Carolina (formerly C. S. 5759, as amended) that the county board of education in a county administrative unit and the board of trustees in a city administrative unit may employ special attendance officers to be paid

from funds derived from fines, forfeitures and penalties, or other local funds, and that said officers shall have full authority to prosecute for violations of this article. The section further provides that in any unit where a special attendance officer is employed, the duties of chief attendance officer or truant officer insofar as they relate to such unit shall be transferred from the county superintendent of public welfare to the special attendance officer of said unit. Thus, you will see that if the procedure outlined in this section is followed, the duties in connection with the enforcement of the compulsory attendance law would be transferred to the special attendance officer or officers and they would be clothed with such authority as is given attendance or truant officers under the law.

It will be noted that under the provisions of Section 115-303 of the General Statutes of North Carolina (formerly C. S., 5758, as amended) the State Board of Education is required to formulate such rules and regulations as may be necessary for the proper enforcement of the compulsory attendance law and the board is required to prescribe what shall constitute truancy. This section makes it the duty of all school officials to carry out the instructions of the state board of education and the failure to do so is made a misdemeanor.

Under the provisions of Section 115-306 (formerly C. S., 5761, as amended) the county superintendent of public welfare or chief school attendance officer or truant officer is required to investigate and prosecute all violators of the compulsory attendance law and reports of unlawful absence are required to be made by the teachers and principals to the chief attendance officer.

I do not find any specific statute which would tend to authorize an attendance officer to arrest a child who is out of school without the service of some process issued by the juvenile court. It is my thought that the attendance officer would be authorized to request a child who is out of school to accompany the attendance officer to the school and, in attempting to secure the return of the child, to use the art of persuasion, but I am definitely of the opinion that the attendance officer would not be authorized to arrest the child or use any physical force in securing the child's return to school.

Under the provisions of Section 110-21 of the General Statutes of North Carolina (formerly C. S. 5039) the juvenile court has exclusive jurisdiction of the case of a child less than 16 years of age who is truant, and the judge of the juvenile court would be authorized to issue the proper process to bring the child before the juvenile court.

Your second question is, "What is the procedure in taking the child before a juvenile court judge?"

Section 110-25 of the General Statutes of North Carolina (formerly C. S., 5043) provides that any person having knowledge or information that a child is within the provisions of the juvenile court act and subject to the jurisdiction of the court may file with the court a petition verified by affidavit stating the alleged facts which bring such child within such provisions. The parties must set forth the name and residence of the child and of the parents, or the name and residence of the person having the guardianship, custody, or supervision of such child, if the same be

known, or ascertained, by the petitioner, or the petition shall state that they are unknown if that be the fact.

Section 110-26 (formerly C. S., 5044) provides that upon the filing of the petition or upon the taking of a child into custody, the court may forthwith or after an investigation by a probation officer or other person, cause to be issued a summons, signed by the judge or the clerk of the court, directed to the child and to the parent or other person standing in the relation of parent requiring them to appear with the child at the time and place stated in the summons to show cause why the child should not be dealt with according to the provisions of the juvenile court act.

Section 110-28 (formerly C. S., 5046) provides for the service of the summons and further provides that in case the summons cannot be served or the party served fails to obey the same and in any case when it is made to appear to the court that summons will be ineffectual or that the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued on order of the court either against the parent or person standing in the relation of parent or against the child himself, and the sheriff or other lawful officer of the county in which the action is taken is required to serve all papers as directed by the court, but the papers may be served by any person delegated by the court for that purpose.

If I can be of any further assistance to you in this matter, please do not hesitate to call on me.

Very truly yours,

HARRY McMULLAN,
Attorney General.

Signed: GEORGE B. PATTON,
Assistant Attorney General.

RULES AND REGULATIONS

ADOPTED BY THE

STATE BOARD OF EDUCATION

COMPULSORY AGE AND ATTENDANCE

All children "between the ages of seven and fourteen," that is, from the seventh to the fourteenth birthday, are required to attend the public school continuously, except as hereinafter provided.

All children between the ages mentioned above "shall attend school continuously for a period equal to the time when the public school in the district in which the child resides shall be in session." If the public school in the district in which the child resides runs six months, or even as much as nine months, the child must attend so long as the public school is in session. A public school is construed to mean the school in the district supported by State and county funds.

Except where a special attendance officer is employed under the provisions of chapter 270, P. L. 1939, the county Superintendent of Public Welfare is the chief school attendance officer provided for by law and is charged with the duty of investigating and prosecuting all violations of the compulsory attendance law. The reports of the teachers give him the necessary information upon which to proceed in the enforcement of the law.

PRIVATE SCHOOLS AND TUTORS

If a child is attending a private school, he must attend for a term equal to that of the public school provided in the district in which the child resides. [*The original regulation with reference to private schools is now incorporated in section 302 of the general compulsory attendance law.*] (1925, c. 226, s. 1.)

WHEN ABSENCES MAY BE EXCUSED

Section 115-302 of the compulsory attendance act provides that "the superintendent, principal, or teacher who is in charge of such school shall have the right to excuse a child for temporary absence on account of sickness or distance of residence from the school, or other unavoidable causes which do not constitute truancy as defined by the State Board of Education." The superintendent, principal, or teacher, whenever said teacher is in charge of the school, may excuse children for non-attendance under the following conditions:

1. **Illness of the child** that incapacitates the child from attending school shall constitute a legitimate excuse for non-attendance. The principal or teacher, however, shall require a physician's certificate if a child is continually absent for illness, unless the teacher is satisfied that the child is really unable to attend school. But wherever it is inconvenient to secure a physician's certificate, it shall be the duty of the teacher to investigate continued absence for illness, and if the teacher is not satisfied that the reputed illness is sufficient cause for absence, she shall report the case to the county health officer for final decision.

2. **Illness in the family** is a legitimate excuse for non-attendance wherever it is apparent that the child's services are needed in the home or wherever there may be danger of spreading a contagious disease.

3. **Death in the immediate family** is likewise a legitimate excuse for non-attendance.

4. **Quarantine** is, of course, a legitimate excuse, and quarantine shall be understood to mean isolation by order of the local or State Board of Health.

5. **Physical incapacity** shall be an excuse for non-attendance. This shall be interpreted to mean physical defects which make it difficult for the child to attend school, or which render the instruction of the child impracticable in any other than special class or a special school. Wherever possible, special classes should be provided for such pupils, who would be encouraged though not required to attend.

6. **Mental incapacity** shall be an excuse for non-attendance, and is interpreted to mean feeble-mindedness or such nervous disorder as to make it either impossible for such child to profit by instruction given in the school or impracticable for the teacher properly to instruct the normal pupils of the school. In the case of feeble-minded children the teacher shall designate the same in her reports to the county superintendent of public welfare, and it shall be his duty to report all such cases to the State Board of Charities and Public Welfare.

7. **Severe weather**, that may be dangerous to the health or safety of the children in transit to and from school, shall constitute a legitimate excuse for non-attendance.

8. **Distance from the school** shall constitute a legitimate excuse for non-attendance if a child resides two and a half-miles or more by the nearest route of travel from the schoolhouse or an established bus route.

Note: The present law on State transportation of pupils provides that the bus route shall come within one mile of the child unless road or other conditions make it inadvisable.

9. **Poverty** in certain cases may be a legitimate excuse, but all such cases must be reported to the county superintendent of public welfare. Coöperation of individuals and organized agencies engaged in specialized social work should be invoked by the teacher. In this connection, school officials are referred to sections 307 and 308 of the compulsory attendance law printed elsewhere in this pamphlet. Aid to indigent children is now under the county welfare budget under the direction of the county superintendent of public welfare.

10. **The completion of the course of study** of the public school attendance area in which the child resides shall excuse the child from attending school, although said child may not have reached his fourteenth birthday.

11. **Demands of the farm or home.** Section 303 of the compulsory school act provides that "immediate demands of the farm or home" in certain seasons of the year in the several sections of the State shall constitute a legal excuse for temporary non-attendance, and the State Board of Education is authorized to formulate such rules and regulations as it may deem necessary to meet the provisions of this act. Since the conditions in different parts of the State are so unlike, the State Board of

Education authorizes the county boards of education and the governing authorities of city administrative units to excuse temporary non-attendance in any particular county where the agricultural conditions are such as to show a reasonable need for the services of the children, under the following conditions:

- a. Where it is apparent that the demands of the farm are serious enough to require the immediate services of the child, and
- b. Where it is apparent that sufficient assistance to meet these demands is not at hand and cannot be secured.
- c. Where it is apparent that the demands of the home, due to sickness or other causes, are such as to call for the immediate assistance of any child, and
- d. Where it is apparent that immediate assistance is not available in the home and cannot be secured.

There is no desire to work any hardship on any community. The object is to secure attendance first, and not to make the law so stringent as to work a hardship. It is well known that in the trucking season of the year the assistance of the older children in many cases is necessary. Moreover, at certain times during the cotton-picking season the assistance of the children is necessary. In other sections of the State agricultural demands may be such as to make the assistance of the older children necessary. But it hardly can be said that the children under ten years of age can be of much assistance, either in the cases of farm or domestic needs.

In such seasons of the year it might be wise to open school earlier and close about 12 or 1 o'clock, thus permitting the pupils to attend school the first half of the day and to aid their parents the second half. This has been tried with success in certain districts and only a very few students are actually required in the home or in the fields during the school session.

Note: Some counties have found it advantageous to divide the term by suspending the operation of the schools during cotton picking time.

UNLAWFUL ABSENCES

Truancy

Truancy is here defined to mean absence from school on the part of the child without the consent of the parent. The school should coöperate in every way possible with the parent to prevent or correct truancy, and the necessity for assuming this responsibility should be impressed upon the parent. It is particularly important to correct truancy in its early stages, because if not corrected there, it usually leads to serious forms of delinquency.

Any child who willfully absents himself from school for at least one day, is guilty of truancy, and it shall be the duty of the teacher to explain this law to the pupil and parent. If the child persists in willfully absenting himself from school, the teacher shall report the same to the principal and he to the attendance officer.

Other Unlawful Absences

Section 305 of the compulsory attendance act provides that any parent or guardian violating the provisions of this act shall be guilty of a misdemeanor, that is, if any parent is the cause of the child's non-attendance by keeping said child at home or permitting the child to be employed in any

way contrary to the Child Welfare Law (Chapter 110 of the Code), he shall be guilty of a misdemeanor and the penalty is prescribed in section 305.

All absences due to the consent or indifference of the parents shall be considered unlawful absences. Such absences shall not be construed as truancy, but as violations of section 305 of the compulsory attendance law.

Parents who refuse to comply with the health regulations of a community, such as compulsory vaccination, thereby causing their children to be excluded from the school, are responsible for the non-attendance of their children and come within the provisions of section 305 of the compulsory school law.

SUSPENSION FROM SCHOOL

Whenever the conduct of any pupil in school is such as in the opinion of the teacher should merit suspension, the teacher shall report the child, together with the causes for suspension to the principal; and if upon investigation the principal deems suspension advisable, he shall make the order of suspension and report the child and the cause of suspension to the attendance officer, who may carry the child before the judge of the juvenile court having jurisdiction in the matter.

The teacher and parent should coöperate to save such child to the school, and the teacher should use great caution in handling such cases, for suspension should always be the last resort of a teacher. No child should be suspended unless it is evident that the welfare of the school is endangered by his presence. Moreover, teachers should not hesitate to reinstate a pupil if it is at all evident that the child may be reclaimed, and a reinstatement should be allowed by the juvenile court as a part of the conditions of probation for the child.

RULES OF PROCEDURE FOR THE ENFORCEMENT OF THE COMPULSORY ATTENDANCE LAW

A. AS TO SCHOOL OFFICIALS—

1. **The Teacher:** The teacher is the key person in the enforcement of the compulsory attendance law. It is her duty:

a. To inform pupils and parents of the value and importance of regular school attendance.

- (1) By classroom activities
- (2) By assembly programs
- (3) At P. T. A. and teachers meetings
- (4) By visits and talks with individual parents or guardians
- (5) By written material (printed or mimeographed), and
- (6) By building up public sentiment in the community for regular school attendance.

b. To ascertain the cause of non-attendance and thus determine when an absence is *excused* or *unexcused* in the legal sense. (See Rules and Regulations of the State Board of Education and Section 115-144 of the General Statutes of North Carolina, 1943.)

- (1) *Written Excuses.* Although the law does not specify in what manner the teacher shall obtain the information as to the cause of an absence, the system of requiring written excuses has been very successful and is recommended as the general practice to be

followed. However, where the teacher obtains knowledge otherwise that the cause of an absence is lawful under the Rules and Regulations adopted by the State Board of Education and a written excuse is not provided, such absences should not be reported as "unlawful." In case written excuses *are required* the teacher should advise children and parents of the necessity of prompt excuses. (May be included in A-1-a above.) Each child should be instructed to bring from the parent the written excuse giving the cause of absence on the *first day* upon returning to school after having been absent.

- (2) *Notice of absence.* In case no written excuse has been provided or the teacher has not obtained the cause of any child's absence from any other source, a written inquiry or "Notice of Absence" shall be sent to the parent or guardian of that child requesting that an excuse be given or that such child will be reported to the Attendance Officer for violation of the Compulsory Attendance Law. Note: A printed form, *Notice of Absence*, Form C3, may be secured from the principal of the school for use in this connection. (See below.)
- (3) *Report to principal.* In case no reply is received from this Notice within a reasonable time, not exceeding 5 days, and the child has not returned to school, the teacher shall report that child to the principal. (*Report of Unlawful Absence* form shall be used.)

2. **The Principal:** The principal, as head of the school, shall assume the responsibility for the enforcement of the compulsory attendance law and the Rules and Regulations adopted by the State Board of Education in relation thereto in the following particulars:

- a. He shall, in so far as it relates to his activities, utilize the means outlined under 1-a above to inform pupils, parents, and *teachers* as to their respective duties in respect to school attendance.
- b. He shall keep a supply of each of the prescribed forms on hand for the use of himself and the teachers working under his supervision. These he will secure from the superintendent or mimeograph them in accordance with forms suggested and approved by the superintendent.
- c. He shall report on the forms prescribed cases of *unlawful* absence to the attendance officer.
 - (1) *Report of Unlawful Absences.* When the principal receives a report from the teacher that a child is or was unlawfully absent from school, he shall report that child's absence to the attendance officer on the form provided for that purpose (Form C5) and giving the information in detail concerning each person so reported as indicated on the form. He shall prepare such reports on unlawful absence in duplicate, sending both copies to the attendance officer. *Whenever possible*, it is suggested that the principal confer in person with the attendance officer concerning each particular case and giving additional facts surrounding each violation of the law which are not indicated on the form. (See B below—"Attendance Officer.")

(2) *Court Cases.* In case a child or parent is reported to the court for failure of the child to attend school, the principal may be called as a witness in the case; and it will be his duty to appear when so called at the time and place specified, and have with him the teacher's report of unlawful absence (Form C7) as well as the teacher in person, if available.

d. He shall report to the welfare superintendent the "School Record," Form D. L. 4, of any child who expects to enter employment following the close of the school term.

3. **The Superintendent:** The superintendent, as head of the county or city administrative unit and as a part of his duties in the administration of the public schools, should assume the responsibility for creating and encouraging a community public sentiment favorable to the enforcement of the Compulsory Attendance Law.

a. He should through teachers meetings, P. T. A. meetings, the newspapers, mimeograph statements and other media keep the public informed about the value, importance and necessity of regular school attendance, and he should advise his principals and teachers as to their duties and responsibilities in respect to the enforcement of the law and in building up public sentiment for regular school attendance.

b. It shall be his special duty to arrange with the attendance officer of his unit for meetings with teachers and principals for discussions concerning school attendance and the enforcement of the compulsory attendance law to the end that the law may operate as frictionless and as smoothly as possible.

c. He shall endeavor to arouse a spirit of cooperation among all concerned—pupils, parents, teachers, principals, attendance officers, and court officials—in the administration of the law.

d. He shall also provide such forms and materials as are necessary for the administration of the law and the Rules and Regulations of the State Board of Education, and distribute this material to the school principals.

NOTE: Some of these forms may be obtained from the State Superintendent of Public Instruction. The superintendent is free, however, to devise any form that may fit the needs of his unit better or furnish statements concerning the question of school attendance to his principals and teachers. This may be necessary in case a special attendance officer is employed. A letter or statement to principals and teachers at the beginning of the year, in which attention is called to the law and with the suggestion that a statement be prepared and distributed to the children for the parents, is especially desirable.

B. AS TO THE ATTENDANCE OFFICER—

It is the duty of the attendance officer under the law "to *investigate* and *prosecute* all violators" of the compulsory attendance law.

1. *Investigation.* Upon receiving from the principal a report of unlawful absence covering any child, the attendance officer (or superintendent of public welfare in case no special attendance officer is employed) shall investigate the conditions surrounding the causes of absence of each case. In so far as practicable, the investigation of poverty and truancy should be done by personal visit.

- (a) *Poverty.* In case the unlawful absence is due to poverty the attendance officer should report the case to the welfare superintendent. In case no special attendance officer is employed the welfare superintendent will provide the necessary clothing to the extent of funds available in accordance with the welfare law.
- (b) *Truancy and parental indifference.* In case a personal visit is not feasible, a personal letter should be sent to the parent in which attention is called (1) to the child's being reported for unlawful absence and (2) to the failure of the parent to render a valid *excuse* to the teacher for his non-attendance, with (3) the warning that unless the child returns to school immediately, or a satisfactory excuse is rendered to the principal and attendance officer as to why the child is or was not in school, that under the compulsory school law the parent will be prosecuted, or in the case of truancy, that the child will be carried before the judge of the juvenile court.
2. *Prosecution.* In case of a personal visit no satisfactory excuse is furnished by the parent, or if the parent shall fail within a reasonable time (to be stipulated in the letter of notification) to furnish a satisfactory excuse as to the child's absence, then the attendance officer shall cause a warrant to be issued against the parent charging a violation of the Compulsory Attendance Law. If from the investigation "truancy" has been determined as the cause of a child's absence, then the attendance officer shall cause a summons to be issued requiring the parent to bring the child before the Juvenile Court Judge upon a day certain for a hearing. If the child is not brought into Juvenile Court in answer to the summons, then a warrant shall be issued and served by an officer of the law. The testimony of the attendance officer shall be admitted as evidence in each case.
3. *Report to Principal.* The attendance officer shall report to the principal the results of the investigation, or prosecution, in case there is any, of each case reported. The duplicate copy of the report of the unlawful absence to the attendance officer shall be used for this purpose. The original copy properly filled out shall be retained in the files of the attendance officer as his official record on the case.

FORMS AUTHORIZED BY THE STATE SUPERINTENDENT

Every teacher or principal is required to make the reports called for below, and the superintendent shall not approve the final voucher of any teacher or principal until all reports have been made according to law. The first two of these forms are obtained from the school superintendent, and the latter from the superintendent of public welfare by the pupil.

1. Notice of Absence—Report Form C3.

Every teacher should impress upon the child the necessity of providing a prompt excuse of his absence. Each child should be instructed to bring a written excuse from the parent on the first day of the return to school after having been absent. Such a rule as this will decrease materially the number of notices to be sent to parents and will aid the teacher in accounting for the absences from school.

Form C3

NOTICE OF ABSENCE
(TEACHER'S NOTICE TO PARENT OR GUARDIAN)

19

Mr. _____:

You are hereby notified that your child, _____,
age _____ years, was absent from school _____ days last week.

The Compulsory Attendance Law makes it necessary for you to give an excuse for this absence. You may use the other side of this form for writing this excuse. Unless there is a good reason for continued absence, the child should be returned to school immediately.

Failure to give the required excuse will be considered as evidence in the violation of the Compulsory Attendance Law, and make it necessary that the absence of your child be reported to the Attendance Officer for his attention and investigation.

Very truly yours,

Teacher

Note: The Rules and Regulations Governing the Compulsory Attendance Law require that the teacher shall send a written or printed notice to every parent or other person whose child has been absent, unless a satisfactory excuse for such absence has already been rendered. If no satisfactory excuse is obtained, then the child shall be reported to the principal, who will in turn report him to the attendance officer as having violated the Compulsory Attendance Law.

2. Report of Unlawful Absence—Form C5.

The teacher shall use this form in reporting to the principal the name of any child who has been or is unlawfully absent. Upon receipt of a report from the teacher giving the name of a pupil who has been absent unlawfully the principal shall, upon being satisfied that such pupil has been or is now unlawfully absent, report same with such additional information requested on this form to the attendance officer of his administrative unit. Use a separate form for each child so reported.

Form C5

REPORT OF UNLAWFUL ABSENCE

Date _____

Name of Pupil Absent _____

TO ATTENDANCE OFFICER: I
hereby wish to report the pupil
named hereon as having violated
the Compulsory Attendance Law.

Age _____ Grade _____

Signed _____

Days Absent (Unexcused) _____ Principal _____

Absence Due to: Parental Indifference _____ Truancy _____ Poverty _____

Date Notice Sent _____

Name of Parent or Guardian _____

Address _____

(Detail of Instructions, as to roads, community, etc., as to locating home.)

Date.....

TO THE PRINCIPAL:

On..... I investigated the above named case and am giving the following results and comments:.....

.....

.....

Signed:.....

Attendance Officer

Note: Principal will prepare the first part of this report in duplicate and give or send both copies to the attendance officer. After investigation or prosecution the attendance officer will complete the second part and return the duplicate to the principal, keeping the original for his files.

3. School Record—Form D.L.4.

Two weeks previous to the close of the school term the teacher or principal shall read and explain the child labor law and rulings of the Department of Labor to the pupils. Opportunity shall then be given to those expecting to enter employment to make their desire known to the teacher or principal. Those wishing to enter employment will be furnished with a school record of evidence. The evidence secured upon this school record of evidence will be considered by the Superintendent of Public Welfare or authorized agent of the Department of Labor in issuing a child labor certificate in accordance with the provisions of the Child Welfare Law. (Chapter 110, N. C. Code.)

Form D. L. 4.

N. C. DEPARTMENT OF LABOR

SUPERINTENDENT OF WELFARE

SCHOOL RECORD

(County).....

This will certify that.....

Name of Minor Age Sex Color

Address.....

Street City or Town County

has completed the..... grade in school,

according to the school records of the.....

Name of School

in.....

City or Town (County)

School official.....

Signature

Date..... 19.....

Official Title

